



भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 2
PART II—Section 2

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 55] नई दिल्ली, बुधवार, दिसम्बर 22, 1983/पौष 1, 1905
No. 55] NEW DELHI, THURSDAY, DECEMBER 22, 1983/PAUSA 1, 1905

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन
के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed
as a separate compilation

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 22nd December, 1983:—

I

BILL No. XXXV OF 1983

A Bill further to amend the Payment of Bonus Act, 1965.

BE it enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Payment of Bonus (Amendment) Act, 1983. Short title and extent.
- (2) It extends to the whole of India.
2. In section 2 of the Payment of Bonus Act, 1965 (hereinafter referred to as the principal Act), in clause (13), for the words "One thousand and six hundred" the words "three thousand" shall be substituted. Amendment of section 2.
3. In section 10 of the principal Act,— Amendment of section 10.
 - (i) for the figures "8.33" the figure "15" shall be substituted;
 - (ii) for the words "one hundred" the words "two hundred" shall be substituted; and
 - (iii) in the proviso, for the words "one hundred rupees" and "sixty rupees", the words "two hundred rupees" and "one hundred rupees", respectively, shall be substituted.
4. In section 11 of the principal Act, in sub-section (1), for the words "twenty per cent", the words "thirty per cent" shall be substituted. Amendment of section 11.

21 of 1965.

- Omission of section 12. 5. Section 12 of the principal Act shall be omitted.
- Amendment of section 13. 6. In section 13 of the principal Act, for the words "one hundred rupees", "sixty rupees" and the figures "8.33", the words "two hundred rupees", "one hundred rupees" and the figure "15", respectively, shall be substituted.
- Amendment of section 15. 7. In section 15 of the principal Act, in sub-section (1), for the words "twenty per cent.", the words "thirty per cent." shall be substituted.
- Amendment of section 17. 8. In section 17 of the principal Act,—
(i) clause (a) shall be omitted; and
(ii) clause (b) shall be re-numbered as clause (a) thereof.
- Amendment of section 20. 9. In section 20 of the principal Act, sub-section (2) shall be omitted.
- Amendment of section 23. 10. In section 23 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—
“(3) Every trade union or employee shall have a right to question the correctness of the balance-sheet or the profit and loss account or any item therein to prove the claim of the employees for bonus.”
- Amendment of section 24. 11. In section 24 of the principal Act, in sub-section (1), for the words "shall not permit" and "but", the words "may permit", and "and", respectively, shall be substituted.
- Amendment of section 31A. 12. In section 31A of the principal Act, in the second proviso, for the words "twenty per cent." the words "thirty per cent.", shall be substituted.
- Amendment of section 32. 13. In section 32 of the principal Act,—
(i) for clauses (i) to (ix), the following clause shall be substituted, namely:—
“(i) employees employed by the Indian Red Cross Society or by any of its allied and subsidiary institutions;”
(ii) clause (xi) shall be renumbered as clause (ii) thereof.
- Amendment of section 34. 14. In section 34 of the principal Act, in the third proviso,—
(i) in clause (a) for the figures "8.33" the figure "15" shall be substituted; and
(ii) in clause (b) for the words "twenty per cent." the words "thirty per cent.", shall be substituted.
- Insertion of new section 34A. 15. After section 34 of the principal Act, the following section shall be inserted, namely:—
34A. (1) Nothing contained in this Act shall be construed to preclude any employer from paying to his employees bonus equal to one month's salary for twelve months work in addition to the pay for the full year irrespective of the number of persons employed by him.

STATEMENT OF OBJECTS AND REASONS

The Payment of Bonus Act was passed in 1965 with a view to defining the claim of bonus and the manner of its payment. This Act was subsequently amended to provide for the payment of minimum bonus at the rate of 8.33 per cent of the salary earned by an employee during a year. That amendment also provides for the maximum limit of 20 per cent. The definition of "employee" as given in the Act excludes an employee whose salary is more than 1600 rupees per month with the result that a large number of categories of employees are excluded from the purview of the Act. But now the Government has started paying bonus to the employees of Railways, Post and Telegraph Department, Defence Ministry and to other departmental employees in consideration of the steep rise in prices. Even the minimum bonus, however, has become too meagre in the present circumstances. Another aspect of the matter is that due to a number of wage agreements even the Class III employees and the technical staff are getting now a salary exceeding rupees 1600 per month and such employees have, under the Act, been deprived of the claim to bonus. There are other anomalies also in this Act which have been pointed out in several judgements of the High Courts and the Supreme Court. It is also necessary that the coverage of the Act is extended so that the large number of employees, specially low paid ones, become entitled to the statutory bonus and not merely to *ex-gratia* as at present. In fact, in the present circumstances every employee should be paid 13 months salary for twelve months work in view of the low salaries which are not sufficient to enable the employees to meet both the ends.

This Bill, therefore, seeks to amend the Payment of Bonus Act, 1965 with a view to achieving the above objectives.

S. W. DHABE

II

BILL No. XXXVI OF 1983

A Bill to provide for the disclosure and scrutiny of financial assets of the civil servants and for matters connected therewith.

BE it enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Civil Servants (Disclosure and Scrutiny of Financial Assets) Bill, 1983.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “civil servant” means and includes any person who holds a post in connection with the affairs of the Union and draws a basic salary of rupees one thousand or more per mensem or receives remuneration or perquisites equivalent thereto;

(b) “financial assets” in relation to a civil servant means any property, movable or immovable, any right, title or interest held by him, whether in his own name or in the name of any other member of his family, as owner, *benamidar* or in any other manner whatsoever.

3. (1) Every civil servant shall furnish to the Central Government a statement (hereinafter referred to as disclosure statement) disclosing his financial assets and the liabilities as existing on the date to be specified by notification in the Official Gazette within the period of three months from the date of notification.

Disclosure of financial assets and liabilities by civil servants.

(2) The statement under sub-section (1) shall thereafter, be furnished after every six months.

(3) The statement aforesaid shall contain all the material details necessary for the convenient and accurate determination of the financial assets and the liabilities of the concerned civil servant.

4. (1) The Central Government shall constitute a Board to scrutinize the disclosure statements furnished under section 3.

Constitution of Board to scrutinise disclosure statements.

(2) The Board shall also ensure that the disclosure statement has been furnished by every civil servant.

5. (1) Any civil servant found to have furnished incorrect, inaccurate and inadequate information in his disclosure statement and on being called upon is not also to show any reasonable cause for so doing shall be deemed to have committed an offence under the Indian Penal Code and shall be punishable for perjury under section 193 thereof.

Penalties

(2) If a civil servant fails to furnish a statement as required under section 3, he shall be liable to pay a fine of rupees five thousand.

(3) If a civil servant is found to have amassed financial assets disproportionate to his known sources of income and the state of liabilities, such of his assets as are found to be in excess, shall be liable to confiscation and he shall also be punishable with fine equal to the value of the excess financial assets.

(4) If a civil servant is found to have acquired such financial assets by misusing his official position, directly or indirectly, he shall be punishable with imprisonment which may extend to seven years but shall not be less than one year.

6. The Board shall make available a true copy of any or all disclosure statements received under section 3 or section 4 to any applicant on payment of fee prescribed by the rules to be made under this Act.

Copy of disclosure statement to be made available to public.

7. The names of the civil servant found guilty under this Act together with the relevant details about them shall be given wide publicity.

Wide publicity to be given to civil servants found guilty under this Act.

8. The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

Black money has become a curse of our economy since it is operating as a parallel economy. The result evidently is that all measures of the Government to improve and tone up the economy have met with no success. This evil by now has become widespread but the most distressing part of it is that it has become rampant in the elite population and civil services also, particularly in the higher echelons of the civil servants. The civil servants are the agencies to implement and carry out the policies of, and the measures adopted by the Government. It is unfortunate that such civil servants get themselves engaged and involved in amassing financial assets in unauthorised manner.

It is, therefore, felt that a beginning should be made to bring under control this menacing economic and social evil by enacting a suitable legislation to be applicable, in the first instance, to civil servants.

Hence, this Bill.

G. C. BHATTACHARYA

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the Constitution of a Board to scrutinise the disclosure statements. Clause 6 of the Bill provides for the supply of copies of disclosure statements on payment of prescribed fee. Clause 7 provides for the publicity of the guilty civil servants. Clause 5 provides for penalties *inter alia* in the form of fine also. As such, a part of the expenditure in carrying out the provisions of the Bill will be met from the receipts in the form of fee and fine. The provisions of the Bill when enacted and brought into operation will, however, involve expenditure from the Consolidated Fund of India.

According to rough estimate, there will be a non-recurring expenditure of the order of rupees one lakh and a recurring expenditure of about the same amount.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill provides for making of rules for carrying out the purposes of the Act. The matters in respect of which rules are to be made relate to administrative and procedural details, as such, the delegation of legislative power is of a normal character,

III

BILL NO. XXV OF 1983

A Bill to provide for the welfare of agricultural workers and to regulate their employment and conditions of service and for matters connected therewith.

BE it enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Agricultural Workers Act, 1983.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and specific dates may be appointed for different States and for different provisions of this Act, within six months from the date of enactment.

Short
title,
extent
and
com-
mence-
ment.

Defini-
tions.

2. In this Act, unless the context otherwise requires,—

(a) “adolescent” means a person who has completed his fifteenth year of age but has not completed his eighteenth year of age;

(b) “adult” means a person who has completed eighteenth year of age;

(c) “child” means a person who has not completed his fifteenth year of age;

(d) “agricultural dispute” means any dispute or difference between employers and employees or between employers and agricultural workers or between agricultural workers and agricultural workers or any dispute raised by a trade union or any valid organisation which is connected with the employment or non-employment or the terms of employment or with the conditions of labour of any person.

Explanation.—Where any employer discharges, dismisses, retrenches or otherwise terminates the service of, or denies employment to, an individual agricultural worker, any dispute or difference between that agricultural worker and his employer connected with, or arising out of, such discharge, dismissal, retrenchment, termination or denial of employment shall be deemed to be an agricultural dispute notwithstanding that no other agricultural worker nor any union of agricultural workers is a party to the dispute.

(e) “agricultural land” means any land, used for cultivation or used for—

(i) farming, including the cultivation and tillage of soil, etc.;

(ii) dairy farming;

(iii) production, cultivation, growing and harvesting of any horticultural commodity;

(iv) raising of livestock, bee-keeping or poultry;

(v) any practice performed on a farm as incidental to or in conjunction with the farm, operations (including any forestry or timbering operations and the preparation for market and delivery to storage or to market or to carriage for transportation of farm products); or

(vi) reserved or used for fodder or thatching grass or for grazing cattle but does not include any plantation as defined in the Plantation Labour Act, 1951;

(f) “agricultural tribunal” means in relation to any area, the Agricultural Tribunal constituted under this Act for that area;

(g) “agricultural worker” means a person who shall be treated as agricultural worker if he follows one or more of the following agricultural occupations in the capacity of labourer on hire or in exchange whether in cash or in kind or partly in cash and partly in kind:—

(i) farming, including the cultivation and tillage of soil, etc.;

- (ii) Dairy farming;
- (iii) production, cultivation, growing and harvesting of any horticultural commodity;
- (iv) raising of livestock, bee-keeping or poultry;
- (v) any practice performed on a farm as incidental or in conjunction with the farm operations (including any forestry or timbering operations and the preparation for market and delivery to storage or to market or to carriage for transportation of farm products).

(vi) Reserved or used for fodder or thatching grass or for grazing cattle.

(h) "award" means an interim or final determination of any agricultural dispute or of any question relating thereto by any Agricultural Tribunal or the State Government.

(i) "board" means the Agricultural Workers' Welfare Fund Board constituted under Section 12 of this Act.

(j) "Conciliation Officer" means, in relation to any area, the Conciliation Officer appointed under this Act for that area;

(k) "employer" when used in relation to an agricultural operations, include farming, dairy farming, production, cultivation, growing and harvesting of any horticultural commodity, raising of livestock, bee-keeping or poultry and any practice performed on a farm as incidental or in conjunction with farm operations (including any forestry or timbering operations and the preparation for market and delivery to storage or to market or to carriage for transportation of farm products), means the person who has the ultimate control over the affairs of the agricultural land and where the affairs of any agricultural land are entrusted to any other person (whether called managing agent, manager, superintendent or by any other name) such other persons shall be deemed to be employer in relation to that agricultural land;

(l) "family" when used in relation to an agricultural worker means husband, wife and their unmarried minor children, dependants and invalid members.

(m) "Fund" means the Agricultural Workers' Welfare Fund established under this Act;

(n) "Inspector" means an inspector appointed under this Act;

(o) "prescribed" means prescribed by rules made under this Act;

(p) "Registering Officer" means a Registering Officer appointed under this Act;

(q) "Scheme" means the Agricultural Workers' Welfare Fund Scheme framed under this Act;

(r) "wages" means payment received in cash or in kind of both in cash and in kind, and shall include payment of share of the produce, where prevalent, and wages in kind shall include perquisites that a person receives customarily for the work performed and the

recurring perquisites include food grains, cooked meals, fuel, tobacco, etc. and non-recurring perquisites include housing, clothes, shoes, bonus, etc.

CHAPTER II

AGRICULTURAL TRIBUNAL AND OFFICERS

Constitu-
tion of
Agricul-
tural
tri-
bunals.

3. (1) The State Government by notification in the Official Gazette constitute for any area specified therein an Agricultural Tribunal for the purpose of performing the functions of the Agricultural Tribunal under this Act.

(2) An Agricultural Tribunal shall consist of one member, who shall be appointed by the State Government.

Appoint-
ment of
Register-
ing
Officers.

4. (1) The State Government may by order notified in the Official Gazette—

(a) appoint such persons, being officers of the State Government, as it thinks fit to be Registering Officers for the purpose of this Act, and

(b) define the local limits, within which a Registering Officer shall exercise the powers conferred on him by or under this Act.

(2) The Registering Officer shall exercise such powers and perform such functions as may be prescribed.

Appoint-
ment of
Concilia-
tion
Officers.

5. The State Government may, by notification in the Official Gazette, appoint for any area specified therein any officer to be a Conciliation Officer for the purpose of performing the functions entrusted to a Conciliation Officer by or under this Act.

Appoint-
ment of
Inspectors.

6. (1) The State Government may, by notification in the Official Gazette, appoint officers or duly qualified persons, to be Inspectors for the purposes of this Act and define the local limits within which they shall exercise their powers.

(2) Subject to such rules as may be made in this behalf by the State Government, an Inspector may, within the local limits for which he is appointed—

(a) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and of the rules made thereunder are being observed in the case of an agricultural land;

(b) with such assistants, if any, being persons in the service of Government or local or other public authority as he thinks fit, enter, inspect, and examine any agricultural land or part thereof at any reasonable time for the purpose of carrying out the objects of this Act;

(c) examine any agricultural worker employed therein or require the production of any register or other document maintained in pursuance of this Act, and take on the spot or otherwise statements of any person which he may consider necessary for carrying out the purposes of this Act;

(d) exercise such other powers as may be prescribed.

7. Every employer shall afford an Inspector all reasonable facilities for making an entry, inspection, examination or inquiry under this Act.

Facilities to be afforded to Inspectors.

CHAPTER III

SECURITY OF EMPLOYMENT AND WELFARE

8. (1) The employer shall not employ a new agricultural worker unless he has employed all the agricultural workers who had worked any time during the previous agricultural season.

Preference for employment as agricultural workers.

(2) In cases of permanent employees, preferences shall be given to those who have worked earlier.

Explanation.—For the purposes of this sub-section, “permanent workers”, in relation to an employer, means an agricultural worker whom that employer is bound to employ by custom or contract or who is otherwise to work in the agricultural land of that employer.

(3) Notwithstanding anything contained in the foregoing provisions of this section, no employer shall be under an obligation to employ any agricultural worker—

- (a) who does not offer himself for employment; or
- (b) who is more than sixty-five years of age; or
- (c) who is incapacitated and is unable to do the work.

9. (1) A trade union of agricultural workers shall be registered and carry on its management and activities in accordance with its constitution and the existing laws applicable to trade unions.

Trade unions of agricultural workers.

Explanation I.—A trade union means any combination, whether temporary or permanent, formed primarily for the purpose of regulating relations between employees and employers or between employees and employers or between employers and employers and includes any association of two or more trade unions.

Explanation II.—For the purposes of Explanation I, an employee includes any agricultural worker as defined in the Act.

(2) The subscription payable by the members of such trade union shall not be less than twenty five paise per month per member.

10. (1) The State Government may, by notification in the Official Gazette, frame a scheme to be called the Agricultural Workers' Welfare Fund Scheme for the establishment of a welfare fund under this Act, and there shall be established, as soon as the Scheme is framed, a fund in accordance with the provisions of this Act and the Scheme.

Establishment of Agricultural Workers' Welfare Fund.

(2) The Fund shall vest in and be administered by, a Board constituted under section 13

(3) Subject to the provisions of this Act, the scheme framed under sub-section (1) may provide for such matters as may be prescribed.

11. (1) The State Government shall pay contribution to the Fund in such manner and at such rate as may be prescribed.

Contribution to the Fund.

(2) The employer shall pay contribution to the Fund in such manner and at such rate as may be prescribed.

(3) Each agricultural worker shall also pay contribution to the Fund in such manner and at such rate as may be prescribed.

Modifica-
tion of
Scheme.

12. The State Government may, by notification in the Official Gazette, add to, amend or vary, the Scheme.

Constitu-
tion of
Board.

13. (1) **The State Government shall, by notification in the Official Gazette, constitute with effect from such date as may be specified in the notification, a Board to be called the Agricultural Workers' Welfare Fund Board for the administration of the Fund.**

(2) The Board shall be a body corporate by the name aforesaid having perpetual succession and a common seal and shall by the said name sue besued.

(3) The Board shall consist of such number of members as the State Government may determine and they shall be chosen in such manner as may be prescribed:

Provided that the number of members representing the State Government, the employers, and the agricultural workers shall be equal.

(4) The State Government shall appoint one of the members of the Board to be its Chairman.

(5) The term of office of, and the manner of filling casual vacancies among, the members of the Board shall be such as may be prescribed.

(6) The names of the members and the Chairman shall be published in the Official Gazette.

(7) The Board shall administer the Fund in such manner as may be specified in the Scheme.

Appoint-
ment of
officers
of the
Board.

14. (1) **The State Government may appoint such number of officers as they think fit for assisting the Board in the administration of the Fund.**

(2) The officers appointed under sub-section (1) shall exercise such powers and discharge such duties as may be prescribed.

Directions
by the
Govern-
ment.

15. (1) The State Government may give to the Board general directions to be followed by the Board, and such directions may include directions relating to the recruitment, conditions of service and training of its employees and the wages to be paid to the employees.

Protec-
tion
from
attach-
ment.

16. (1) The amount standing to the credit of any member in the Fund shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any court in respect of any debt or liability incurred by the member.

(2) Any amount standing to the credit of a member in the Fund at the time of his death and payable to his nominee under the Scheme shall, subject to any deduction authorised by the Scheme, vest in the nominee and shall be free from any debt or other liability incurred by the deceased or the nominee before the death of the member.

(3) Any amount standing to the credit of a member in the Fund at the time of his ceasing to be an agricultural worker, whether on the ground that he is over sixty-five years of age or on the ground that he is incapacitated and is unable to work or on any other ground, shall, subject to any deduction authorised by the Scheme, be paid to him and

shall be free from any debt or other liability incurred by that member before his ceasing to be an agricultural worker.

17. No employer shall by reason only of his liability for the payment of any contribution to the Fund reduce whether directly or indirectly the wages of any agricultural worker to whom the Scheme applies.

Employer
not to
reduce
wages,
etc.

18. (1) The State may set up an employment Guarantee Board, tripartite in character, having representatives of the State Government, employers and agricultural workers to supervise Employment Guarantee and Social Security Schemes.

Constitu-
tion of
Employ-
ment
Guaran-
tee Board.

(2) The Chairman of the Board shall be nominated by the State Government.

(3) The Board shall also plan alternative or part-time employment as well as self employment, particularly during lean seasons and times of natural calamities.

(4) The financing of the programmes under the Board shall be in the manner as may be prescribed.

CHAPTER IV

HOURS AND LIMITATIONS OF EMPLOYMENT AND WAGES

19. Save as otherwise expressly provided in this Act, no adult agricultural worker shall be required to work for more than eight hours with half an hour rest in any day and no adolescent or child for more than six hours in any day inclusive of half an hour rest.

Hours of
work.

20. Where an agricultural worker works in any employment for more than nine hours on any day or for more than forty-eight hours in any week, he shall in respect of such overtime work, be entitled to wages at double the ordinary rate of wages.

Extra
wages for
overtime
work.

Explanation.—The expression “ordinary rate of wages” means the basic wage plus such allowances including the cash equivalent of the advantages accruing through the concessional sale to the person employed of foodgrains and other articles as the person employed is for the time being entitled to but does not include a bonus.

21. The period of work on each day shall be so fixed that no period shall exceed four hours and that no agricultural worker shall work for more than four hours before he has had an interval for rest of at least half an hour.

Daily
intervals
for rest.

22. (1) In States, where harvesting wages higher than statutory minimum wages are prevalent, wages not less than such harvesting wages shall be paid.

Harvest-
ing
wage

(2) The harvesting wages shall be paid at the threshing floor on which the threshing takes place and no portion of the produce shall be removed from the threshing floor without payment of the prescribed wages to the agricultural worker concerned.

23. (1) Every employer including the Central and the State Government, local bodies, shall pay to any agricultural worker employed by him for each day not less than the wages notified by the State Government in the Official Gazette.

Wages
payable
to
agricul-
tural
workers.

Enforce-
ment of
payment
of
wages.

(2) The State Government may, from time to time, by notification in the Official Gazette fix the rate of wages of casual workers engaged on daily basis either for the whole State or any part thereof, so as to make distinction between monthly and daily wages.

24. (1) If any employer pays less than the wages notified in the Official Gazette or refuses to pay such wages to any agricultural worker, the agricultural worker or an official of the trade union of which he is a member may make an application to the Conciliation Officer for a direction under sub-section (2).

(2) On receipt of an application under sub-section (1), the Conciliation Officer shall, after giving the applicant and the employer an opportunity of being heard and after such inquiry, if any, which he may consider necessary direct—

(a) in the case of a claim arising out of the payment of less than the wages notified in the Official Gazette, the payment to the agricultural worker of the amount by which the wages notified in the Official Gazette payable to him exceeds the amount actually paid by the employer;

(b) in the case of a claim arising out of non-payment of the wages notified in the Official Gazette, the payment of that wages to the agricultural worker.

(3) If as a result of a direction under sub-section (2), any amount of the wages notified in the Official Gazette becomes payable to an agricultural worker, the Conciliation Officer may recover that amount from the employer concerned and if such recovery is not possible, the Conciliation Officer shall make a report to the Collector or the Deputy Commissioner, as the case may be, specifying the full particulars regarding the amount due to the agricultural worker concerned and on receipt of such report, the Collector or the Deputy Commissioner, as the case may be, shall proceed to recover the same from the employer concerned as if it were an arrear of public revenue on land and the time element in such cases shall be fixed by the State Government.

(4) The Conciliation Officer shall have such powers, as may be prescribed, to effect the payment of the wages, notified in the Official Gazette, to the agricultural worker.

CHAPTER V

DISPUTES

Settle-
ment of
agricul-
tural
disputes.

25. (1) Where an agricultural dispute exists or is apprehended, the Conciliation Officer may hold conciliation proceedings and shall, for the purpose of bringing about a settlement of the dispute, without delay investigate the same and all matters affecting the merits and the right settlement thereof and may do all such things, as he thinks fit, for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.

(2) If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of conciliation proceedings, the Conciliation Officer shall send a report thereof to the Labour Commissioner together with a memorandum of settlement signed by the parties to the dispute.

(3) If no such settlement is arrived at, the Conciliation Officer shall, as soon as practicable after the close of the investigation, send to the District Collector or the Deputy Commissioner as the case may be a full report setting forth the steps taken by him for ascertaining the fact and circumstances, and the reasons on account of which in his opinion, settlement could not be arrived at:

Provided that in a case where the agricultural dispute relate to an agricultural land situated within the local limits of more than one revenue district, the Conciliation Officer shall send the report to the District Collector or the Deputy Commissioner, as the case may be, in whose jurisdiction the major portion of such land is situated.

(4) If on a consideration of the report referred to in sub-section (3) the District Collector or the Deputy Commissioner, as the case may be, is satisfied that there is a case for reference to an Agricultural Tribunal, he may, by order in writing, refer the agricultural dispute to the said Tribunal for adjudication and where the District Collector or the Deputy Commissioner, as the case may be, does not make such a reference, he shall record and communicate to the parties concerned his reasons therefor.

(5) Where an agricultural dispute has been referred to an Agricultural Tribunal under sub-section (4), the Tribunal shall hold its proceedings expeditiously and shall, as soon as practicable after the conclusion of the proceedings, but not later than thirty days from the date of receipt of the reference by the Tribunal, submit its award to the District Collector or the Deputy Commissioner, as the case may be.

(6) The District Collector or the Deputy Commissioner, as the case may be, shall, within a period of fifteen days from the date of receipt of the award referred to in sub-section (5), cause the same to be published in his office and in the office of the Agricultural Tribunal in such manner as may be prescribed and shall also forward copies of the award to the parties concerned.

(7) An award referred to in sub-section (5) shall, subject to any order of the State Government under section 26, become enforceable on the expiry of ten days from the date of its publication in the manner provided in sub-section (6).

(8) Every memorandum of settlement referred to in sub-section (2) and, subject to any order of the State Government under section 26, every award of an Agricultural Tribunal shall be final and shall be given effect to by the parties to the Agricultural dispute.

26. (1) Against any order passed by a Conciliation Officer under section 24, an appeal shall lie to the Agricultural Tribunal within a period of thirty days from the date of the order appealed against, and the decision of the Agricultural Tribunal on such appeal shall be final. Appeal.

27. (1) Notwithstanding anything contained in section 24, where any agricultural dispute exists or is apprehended, the State Government may, by order in writing and for reasons to be stated therein,— Reference or decision of disputes by Government.

(a) refer the dispute to the Agricultural Tribunal constituted for the area in which the dispute exists or is apprehended for adjudication; or

(b) decide the dispute themselves and pass an award.

(2) Where a dispute is referred to an Agricultural Tribunal under clause (a) of sub-section (1), the provisions of sub-sections (5), (6), (7) and (8) of section 24 shall apply as if the reference to the Tribunal were made by the District Collector or the Deputy Commissioner, as the case may be, under sub-section (4) of that section.

(3) The State Government shall cause every award passed by them under clause (b) of sub-section (1) to be published in the Official Gazette and in such other manner as may be prescribed.

(4) An award referred to in sub-section (3) shall be final, shall be given effect to by the parties to the agricultural dispute and shall be enforceable on the expiry of five days from the date of its publication in the Official Gazette.

CHAPTER VI

PENALTIES AND PROCEDURE

Penalty.

28. If any person—

(a) contravenes any of the provisions of this Act or any rule made thereunder; or

(b) to whom a direction is given or requisition is made under this Act fails to comply with the direction or requisition; or

(c) knowingly makes or causes to be made any false statement or false representation.

he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to rupees five hundred or with both.

Offences
by
compa-
nies.

29. (1) If the person committing an offence under this Act is a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section—

(a) “company” means any body corporate and includes a firm or other association of individuals whether incorporated or not; and

(b) "director" in relation to a firm, means a partner in the firm.

30. (1) No court shall take cognizance of any offence punishable under this Act, save on complaint made by or under the authority of the State Government.

Cogni-
zance
of
offence.

(2) No court inferior to that of a Magistrate of the First Class shall try any offence punishable under this Act.

31. If any person who has been convicted of any offence punishable under this Act is again found guilty of an offence involving a contravention of the same provisions, he shall be punishable on a subsequent conviction with imprisonment for a term which shall not be less than one month but which may extend to six months and with fine which shall not be less than five hundred rupees, but which may extend to two thousand rupees:

Enhanced
penalty
after
previous
con-
viction.

Provided that for the purpose of this section, no cognizance shall be taken of any conviction made more than five years before the commission of the offence which is being punished.

32. No court shall take cognizance of an offence punishable under this Act unless complaint thereof is made within six months from the date on which the alleged commission of the offence comes to the knowledge of the Government or the Officer authorised.

Limita-
tion of
prose-
cutions.

CHAPTER VII

MISCELLANEOUS

33. Every registering authority shall prepare a register of agricultural workers residing within the jurisdiction of that local authority in such manner and with such particulars as may be prescribed.

Regis-
ter of
agricul-
tural
workers.

34. Every employer shall maintain such register and records contain-
ing such particulars as may be prescribed.

Mainte-
nance of
registers
and re-
cords by
the em-
ployer.

35. No civil court shall entertain any suit or other proceedings to set aside or modify any order or decision passed by any tribunal, authority or officer under this Act in respect of any of the matters falling within its or his scope.

Bar of
jurisdic-
tion of
civil
courts.

36. Any Tribunal, Authority or Officer exercising powers under this Act shall have the same powers as are vested in Civil Court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely:—

Power
to take
evidence,
oath, etc.

5 of 1908.

(a) enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence;

(d) issuing commission for the examination of witnesses; and

(e) such other matters as may be prescribed and any proceeding before such tribunal, authority or Officer shall be deemed to be a judicial proceedings within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code.

45 of 1860.

Recovery
of mo-
ney due
from the
em-
ployer.

37. (1) Where any money is due to an agricultural worker from the employer under this Act the agricultural worker himself or any other person authorised by him in writing in that behalf or in the case of the death of the agricultural worker his assignees or heirs may make an application to the District Collector or Deputy Commissioner as the case may be for the recovery of the money due to him and if the District Collector or the Deputy Commissioner is satisfied that any money is so due he shall proceed to recover the same as if it were an arrear of public revenue due on land:

Provided that every such application shall be made within one year from the date on which the money became due to the agricultural worker from the employer.

(2) Any amount due from the employer as contribution to the Fund under this Act or Scheme may, if the amount is in arrear, be recovered as if it were an arrear of public revenue due on land.

Act to
have
effect
not-
with-
stand-
ing any-
thing in-
consis-
tent in any
other law,
etc.

38. The provisions of this Act and the Scheme shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the commencement of this Section:

Provided that where under any such award, agreement, contract of service, custom or otherwise, any agricultural worker was enjoying immediately before the commencement of this section benefits in respect of any matter, which are more favourable to him than those to which he would be entitled under this Act, the agricultural workers shall be entitled to the more favourable benefits in respect of that matter, notwithstanding that he receives benefits in respect of other matters under this Act.

Act not
to apply
to mar-
ginal
farmers.

39. Nothing contained in this Act other than sections 18, 19, 20, 21, 22, 23, 25, 26 and section 40 shall apply in relation to a marginal farmer who does not hold more than one irrigated hectare or two unirrigated hectares of land.

Members
of the
Board,
etc. to be
public
servants.

40. Every member of the Board and every officer appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1960

Protec-
tion
against
action
taken in
good
faith.

41. No suit, prosecution or other legal proceedings shall lie against the State Government or any tribunal, authority or officer in respect of anything which is in good faith done or intended to be done in pursuance of this Act or the Scheme or any rule or order made under this Act.

42. An employer shall not support or encourage any unfair labour practice such as interference with the right of agricultural workers to enrol or continue as union members, discriminatory restraint or coercion against any employer because of recognised activity of trade union, and victimisation of any employee and abuse of authority in any form.

Prohibition of unfair labour practices.

43. (1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the form and manner in which application for registering agricultural workers may be made;

(b) the wage rates and overtime rates which an agricultural worker is entitled to under this Act;

(c) the form of registers and records to be maintained;

(d) the powers of the Conciliation Officer necessary for the effective enforcement of the provisions of this Act;

(e) the procedure to be followed by the Conciliation Officer and the Agricultural Tribunal;

(f) the fees to be paid for applications and appeals under this Act;

(g) the manner of estimating the cash value of the wages paid in kind;

(h) the procedure to be followed by the State Government under sections 25 and 26;

(i) any other matter which has to be, or may be, prescribed under the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

Agricultural workers form a large chunk of our population. State Governments announce increase in their wages but there has been no machinery to implement it. The result is that they have to work almost as bonded labour. They do not enjoy other amenities also which are generally given to the industrial workers. It is felt that there is need to ameliorate their overall conditions. This Bill seeks to achieve this objective.

Hence this Bill.

HARKISHAN SINGH SURJEET

FINANCIAL MEMORANDUM

Clause 3 of the Bill empowers the State Governments for the constitution of Agricultural Tribunals. Clause 6 provides for appointment of Inspectors; clause 10 empowers the State Governments to frame a scheme called Agricultural Workers' Welfare Fund Scheme; clause 11 provides for contribution by the Government to the Fund; clause 13 for constitution of the Agricultural Workers' Welfare Fund Board; clause 14 for appointment of officers of the Board; and clause 18 empowers the State Government to set up an Employment Guarantee Board. The expenditure involved in this respect will be met from the respective Consolidated Fund of the States. Expenditure from the Consolidated Fund of India will be incurred only in respect of the Union territories. A sum of Rs. 16 lakhs is, therefore, likely to be involved as annual recurring expenditure from the Consolidated Fund of India. And, in addition, a sum of Rs. 5 lakhs is also likely to be involved on account of non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 43 empowers the State Government to make rules for carrying out the purposes of this Bill. The delegation of legislative powers is of normal character.

IV

BILL NO. XXVIII OF 1983

A Bill to provide for certain agencies to ensure freedom of having access to and obtaining public information for the citizens and for matters connected therewith.

BE it enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows:—

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| <p>1. (1) This Act may be called the Freedom of Information Act, 1983.</p> <p>(2) It extends to the whole of India.</p> <p>(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.</p> <p>2. No citizen of India shall be denied the freedom to have access to or to obtain information relating to public affairs save as otherwise provided in this Act.</p> <p>3. (1) The Central Government shall constitute such number of agencies to be called as the National Information Bureau (hereinafter referred to as Bureau) in every State and Union-territory as it may consider necessary for ensuring the freedom of having access to and obtaining public information to the citizens.</p> | <p>Short title, extent and commencement.</p> <p>Citizens not to be denied freedom of information.</p> <p>Constitution of National Information Bureaus.</p> |
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(2) Each Bureau shall consist of such number of Advisors as the Central Government may determine from time to time.

(3) Each Bureau shall have a Chief of Bureau to function as its head who shall be appointed by the Central Government.

(4) The Advisors to a Bureau shall be appointed by the Central Government on the advice of its Chief of Bureau in such manner that they represent the concerned sectors of public information and are capable of ensuring freedom of having access to and obtaining as much public information for the citizens as the Bureau may find it possible to make available for public inspection and copying.

Classifi-
cation of
informa-
tion.

4. Each Bureau shall classify all information available with it, or to be made available to it, in such manner as it may deem practicable and convenient keeping in view the nature and source of the information.

Exemp-
tion of
certain
types of
informa-
tion from
disclo-
sure.

5. Certain types of information may, by Executive Order, be declared by the Central Government or the Governments of the States or the Administrations of the Union territories, as secret in the interest of national defence or foreign policy or judicial process or maintenance of public peace or law and order or such other matters as may be so declared from time to time and shall be exempt from disclosure under this Act.

Reports.

6. Each Bureau shall submit a Quarterly Report on its working to the Governor of a State or the Lieutenant Governor or other such authority of a Union-territory who shall forward the same to the President, as early as practicable, with his comments and recommendations thereon.

Obliga-
tion to
supply
informa-
tion.

7. Subject to the provisions of section 5, it shall be obligatory on the part of each Bureau to make available the maximum possible information to the citizens and also on the part of the Central Government and the Governments of the States and the Administrations of the Union-territories to make available to the respective Bureau as much information as possible on priority basis.

Com-
plaint
and
appeal.

8. In every case of denial or undue delay in the supply of information, any citizen requesting for the information shall have the opportunity to make a complaint to the Chief of Bureau in regard thereto, in the first instance, and to make a first appeal to the Governor or the Lieutenant Governor, as the case may be, and the second appeal to the President, against the decision of the Chief of Bureau, the Governor or the Lieutenant Governor, as the case may be.

Fees for
informa-
tion.

9. Each Bureau shall charge such fees for making available any information as it may deem adequate in respect of each class of information.

Officers
and staff.

10. Each Bureau shall have a Secretary and such other Officers and staff as may be considered necessary from time to time to execute the work of the Bureau efficiently.

STATEMENT OF OBJECTS AND REASONS

There is widespread discontent among the masses leading to all sorts of turmoil and disturbances in almost all parts of the country, particularly directed against the Government of the day. Among other things, one of the basic causes of this disturbing phenomenon is ignorance or lack of adequate information available to the people leading to mistrust among them regarding the working and the pronouncements of the Government. It is time to recall and act in the spirit of the famous dictum of Abraham Lincoln that democracy is Government of the people, for the people and by the people. In this direction it is felt imperative that there should be some legislation to start with providing for the freedom of information to the people.

Hence, this Bill.

G. C. BHATTACHARYA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of such number of the National Information Bureaus in each State and Union territory, as may be considered necessary, by the Central Government. Clause 10 provides for a Secretary and such other officers and staff as may be considered necessary from time to time. Though there is provision for charging adequate fees to meet the expenses involved in carrying out the purposes of the Bill, yet the provisions when enacted and brought into operation would involve expenditure from the Consolidated Fund of India.

There shall be a non-recurring expenditure of approximately 50 lakhs and a recurring per year expenditure of about the same order.

SUDARSHAN AGARWAL,
Secretary-General.